

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 97-2

Date: January 30, 1997

TO: All Regional Directors, Officers-in-Charge, Resident Officers
and Compliance Officers

FROM: Fred Feinstein, General Counsel

SUBJECT: Reinvention of the Contempt Litigation Branch as part of
Compliance Reinvention Initiative

As part of the Office of the General Counsel's continuing program of reinvention, and specifically in an effort to enhance the effectiveness and efficiency with which we carry out the compliance function, we have undertaken a comprehensive review of how our compliance efforts are managed. In particular, we are looking at how compliance issues should be handled under Impact Analysis, and how the various divisions in Headquarters can better assist the Regions, which are the primary locus of compliance work. Two task forces composed of Headquarters and field staff, the Impact Analysis Compliance Subgroup and the Compliance Reinvention Committee, are examining these important questions, and are planning to submit their recommendations to me for review shortly.

In the meantime, I have decided to implement the interim recommendation of the Compliance Reinvention Committee to reinvent the Contempt Litigation Branch. Up until now the vast majority of the Contempt Branch's work has been focused on prosecuting contempt cases. Our aggressive pursuit through civil and criminal contempt proceedings of those Respondents who have chosen to disobey our court-enforced Board orders is certainly necessary to establish an effective deterrent to such misconduct. However, cases at the contempt stage of the case processing pipeline do not have as high a potential for achieving full remedial relief as do cases in the early stages of the pipeline. Furthermore, it is imperative that, during these early stages, appropriate resources are brought to bear so that compliance actions are taken to ensure that our opportunities to achieve full remedial relief are not lost. Therefore, in order for the personnel and other resources of the Contempt Branch to be used in the most productive manner possible in pursuing the Agency's compliance work, the Contempt Branch should be reinvented so that its work places greater emphasis on proactively assisting the Regions in their compliance work, particularly during the earlier stages of case processing. The work of the Branch should also be refocused to address those areas in our existing compliance system that should be enhanced, including the development of casehandling strategies and techniques, compliance training, and the sharing of information concerning new

and innovative compliance tools, among others. Through these reinvention efforts, the Regions, where the vast majority of compliance work is performed, should be better equipped to effectively and efficiently process the Agency's compliance cases. Although supervision of Regional Office compliance activities will continue to reside in Operations-Management, I believe these changes will enhance our efforts in this regard.

To accomplish these reinvention goals, the Contempt Litigation Branch will be renamed the "Contempt Litigation and Compliance Branch," and the new branch will be held responsible for performing the following duties in addition to those duties currently assigned to the branch:

- establishing a "compliance hotline" through which the Regions may informally obtain telephonic advice and assistance with respect to compliance matters, as well as sample pleadings and other legal documents;
- developing long-term casehandling strategies in connection with certain types of compliance cases (collection, bankruptcy, inability to pay, successor/alter ego/corporate veil piercing and fraudulent conveyance cases);
- assisting in ensuring that the Regions are aware of new and innovative compliance tools and current compliance policies, and establishing a system for sharing successful compliance techniques among the Regional offices;
- providing the Regional offices with up-to-date training in compliance casehandling;
- maintaining an up-to-date compliance handbook in electronic and hardcopy form containing an integrated compliance reference material system;
- assisting the Division of Operations-Management in coordinating the monitoring of compliance through the review of Regional compliance reports and other sources of compliance data;
- making the "compliance liaison" designated for each District in the Division of Operations-Management aware of needs for additional compliance assistance or resources that have come to the Branch's attention;
- reviewing and changing where appropriate the Branch's operating procedures in order to facilitate the Regions' use of the Branch's services.

If you have any questions regarding the reinvention of the Contempt Litigation Branch, or the services that the new Contempt Litigation and Compliance Branch is responsible for providing, please contact Assistant General Counsel Gary Shinnars ((202) 273-3737).

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cc: NLRBU

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